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Elimination of racism, racial discrimination, xenophobia and related intolerance: comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Report of the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action on its fifth session

Summary

The group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action held its fifth session, in Geneva, from 8 to 11 October 2018. The present report is submitted pursuant to General Assembly resolution 72/157.

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I. Introduction

1. The group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action held its fifth session, in private, from 8 to 11 October 2018 at the United Nations Office at Geneva. The present report is submitted in accordance with General Assembly resolution 72/157.

II. Organization of the fifth session

A. Opening of the session

2. The Chief of the Anti-Racial Discrimination Section at the Office of the United Nations High Commissioner for Human Rights (OHCHR), Mr. Yury Boychenko, welcomed the group of independent eminent experts and congratulated the newly appointed members, Mr. Ibrahim Gambari and Mr. Saied Ashshowwaf. He noted that the revitalization and reactivation of the operational activities of the group was another important step in the fight against racism, racial discrimination, xenophobia and related intolerance. He encouraged the experts to explore new opportunities to mobilize political will and increase the participation of all stakeholders. Mr. Boychenko also briefed the experts on the mandates of the various Durban follow-up mechanisms and highlighted the progress that had been made as well as the challenges that had been faced.

B. Election of the Chairperson-Rapporteur

3. Ms. Edna Maria Santos Roland was elected Chairperson-Rapporteur for a period of two years.

C. Organization of work

4. The group of independent eminent experts adopted the agenda and programme of work (annexes II and III to the present report).

D. Budget issues

5. At the 1st meeting, the secretariat provided the requested information on existing programme budget implications related to the mandate of the independent eminent experts, which included travel and daily subsistence allowance for the annual session of the group, as well as travel and daily subsistence allowance for five thematic experts. In that regard, the eminent experts emphasized that the currently allocated financial resources were absolutely insufficient for the effective fulfilment of their mandate, taking into consideration, in particular, the key role they were expected to play in mobilizing the necessary political will.

E. Mandate

6. Also at the 1st meeting, the independent eminent experts discussed the parameters of the mandate. They analysed various provisions, including the provision in paragraph 191 (b) of the Durban Declaration and Programme of Action, as well as relevant paragraphs of General Assembly resolution 56/266 and Commission on Human Rights resolutions 2002/68 and 2003/30. The eminent experts emphasized the

need to design a realistic and implementable plan of action, for a period of two years, that included short-term, medium-term and long-term objectives, activities and envisaged outcomes. The experts also underlined that their views and substantive inputs should be sought for all reports of the Secretary-General and the United Nations High Commissioner for Human Rights on issues regarding the implementation of the provisions of the Durban Declaration and Programme of Action.

F. Methods of work

7. At the 2nd and 3rd meetings, the group discussed its methods of work, which it adopted on 9 October 2018 (annex IV).

III. Thematic discussions

8. At the 3rd meeting, the independent eminent experts briefly discussed item 7 of the programme of work, which regards the planning of future work, and decided to discuss it in more detail before the end of the session. The group also discussed item 8 on modalities for assessing the implementation of the Durban Declaration and Programme of Action. The eminent experts noted that it was essential to assess the implementation of the Declaration and Programme of Action, in a comprehensive manner, especially in view of the upcoming twentieth anniversary of its adoption, which should be commemorated in 2021. In that regard, it was suggested that the group focus on reviewing laws, policies and institutional measures at the national and regional levels. The group noted that that was important for identifying key challenges for the comprehensive implementation of the Declaration and Programme of Action. The possibility of evaluating the role of national human rights institutions in promoting the implementation of the Declaration and Programme of Action in the respective countries was also discussed.

9. The eminent experts emphasized the need to collaborate closely with all stakeholders, with a view to collecting and analysing information on the implementation of the Declaration and Programme of Action, including OHCHR, the Working Group of Experts on People of African Descent, the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the Ad Hoc Committee on the Elaboration of Complementary Standards, the Committee on the Elimination of Racial Discrimination, Member States, regional organizations, national human rights institutions and civil society organizations. The group also noted that efforts should be made to involve the private sector.

10. The independent eminent experts expressed the need to design an assessment tool to facilitate the review of the implementation of the Declaration and Programme of Action. They noted that such a tool should be concise, practical, results-oriented and user-friendly, possibly in the form of a questionnaire or checklist. The importance of developing key indicators for the implementation of the Declaration and Programme of Action was also highlighted.

11. At the 4th meeting, the secretariat briefed the independent eminent experts on key activities carried out by the Anti-Racial Discrimination Section, including substantive and secretariat support to Durban follow-up mechanisms, advisory services to Member States on legal measures, policies and institutions, technical cooperation projects supporting effective consultations, empowerment of stakeholders, training, policy-oriented research and awareness-raising initiatives.

12. The independent eminent experts discussed possibilities of increasing the visibility of their work through the issuance of press statements. Mr. Rupert Colville, Spokesperson for the United Nations High Commissioner for Human Rights, outlined key elements for effective press releases, in terms of content and timing. He noted that statements from the group, which might not attract media coverage, could be still useful if circulated through mailing lists to interested stakeholders. Posts on social media, as well as on online forums with national and regional focus, and websites of key organizations could also increase the visibility of the experts' work.

13. At the 5th meeting, the independent eminent experts had informal discussions with the Chairpersons of two Durban follow-up mechanisms: Ambassador Taonga Mushayavanhu (Zimbabwe) of the Ad Hoc Committee on the Elaboration of Complementary Standards and Ambassador Refiloe Litjobo (Lesotho) of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action. The Chairpersons provided an overview of the dynamics and the progress that had been made since the establishment of the two intergovernmental mechanisms, as well as challenges they had been facing.

14. At the 6th meeting, the Anti-Racial Discrimination Section continued the briefing for the experts on ongoing activities on racism and sport, the OHCHR fellowship programme for people of African descent and the OHCHR database on practical means to combat racism, racial discrimination, xenophobia and related intolerance.

15. The independent eminent experts also had an informal discussion with Ms. Mona Rishmawi, Chief of the Rule of Law, Equality and Non-Discrimination Branch at OHCHR. Ms. Rishmawi briefed the experts on the strategic priorities of the Office and highlighted various opportunities for closer collaboration with the group of independent eminent experts.

16. At the 7th meeting, the independent eminent experts had an informal discussion with representatives of civil society organizations (annex I). The eminent experts expressed the wish to exchange information and maintain continuing communication with civil society and to receive inputs from civil society organizations on the implementation of the Durban Declaration and Programme of Action.

17. Civil society representatives expressed concerns about the lack of political commitment by some Member States to the implementation of the Declaration and Programme of Action, the lack of resources in OHCHR for the implementation, in particular for public awareness campaigns, and the lack of a clear plan of action for the International Decade for People of African Descent, as well as the recent trend in some countries of questioning the primacy of international law over national law.

18. They also invited the group of independent eminent experts to consider undertaking several actions, including the mobilization of political will and the launch of public outreach campaigns in view of the upcoming twentieth anniversary of the Declaration and Programme of Action and the organization of an intersessional symposium to discuss challenges in public outreach and the mobilization of political will for the implementation of the Declaration and Programme of Action, and to call on the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action to undertake comprehensive and systematic monitoring of the implementation of the Declaration and Programme of Action.

19. At the 8th meeting, the independent eminent experts discussed draft recommendations as well as item 7 of the programme of work, regarding the planning of future work. They decided that the sixth session of the group would be held in Geneva from 6 to 10 May 2019 and that the main topic for thematic discussion would

be racist and hate speech in political discourse. The group also decided to prioritize the following issues of importance for its thematic deliberations, for the upcoming two-year period:

- Domestication of legal norms, instruments and agreements and empowerment of national institutions
- Religious, political and national intolerance and hatred
- Racial profiling, incarceration and violent deaths.

IV. Recommendations

20. The independent eminent experts, appointed in follow-up to the Durban Programme of Action (see para. 191 (b)), mindful of the request to the United Nations High Commissioner for Human Rights to cooperate with the independent eminent experts, request that their opinion on the section on the implementation of the Durban Declaration and Programme of Action in the draft report of the United Nations High Commissioner for Human Rights be sought prior to its submission to the Human Rights Council and the General Assembly.

21. The group of independent eminent experts recommends to the Secretary-General and the United Nations High Commissioner for Human Rights that the inputs of the experts be sought for all reports concerning the implementation of the Durban Declaration and Programme of Action.

22. In view of the experts' mandate to follow and promote the implementation of the Durban Declaration and Programme of Action, the group requests the secretariat to send a note verbale to States, international and regional organizations, civil society organizations, national human rights institutions and academia, inviting them to submit inputs and information on evaluation criteria and/or indicators, to assist the group in carrying out its mandate.

23. The group urges Member States to support the efforts of the independent eminent experts in mobilizing political will and effective participation in the implementation of the Durban Declaration and Programme of Action.

24. The group requests an early meeting with the United Nations High Commissioner for Human Rights in order to exchange views on the thematic priorities established by the experts and the modalities of cooperation.

25. With a view to ensuring the effective fulfilment of the mandate of the independent eminent experts, as well as the emphasis on the key role to be played by the group of independent eminent experts in mobilizing the necessary political will, required for the successful implementation of the Declaration and Programme of Action, the group requests the Secretary-General and the United High Commissioner for Human Rights to provide the necessary human and financial resources, including and not limited, to enable the experts to:

(a) Organize at least one annual consultation with key stakeholders in their respective region, with a view to identifying challenges and opportunities for the effective implementation of the Durban Declaration and Programme of Action;

(b) Travel and meet with key stakeholders at the international, regional and national levels.

26. With reference to paragraph 97 of document A/70/367 and paragraph 138 of the outcome document of the Durban Review Conference (2009), and taking

into consideration the need for funds for the effective functioning of the Durban Declaration follow-up mechanisms, and their specific plans of action, the implementation of the International Decade for People of African Descent and the forthcoming twentieth anniversary of the Durban Declaration and Programme of Action, the independent eminent experts propose to revitalize the Trust Fund for the Programme for the Decade for Action to Combat Racism and Racial Discrimination.

27. **The group recommends to the General Assembly to initiate discussions for the preparations of the commemoration of the twentieth anniversary of the Durban Declaration and Programme of Action, including the possibility of holding a high-level meeting at the General Assembly in 2021, and in this regard to seek the inputs and ensure the involvement of the independent eminent experts.**

28. **The group commits to contribute constructively to the development of a multiyear outreach programme for public information and mobilization in support of the Durban Declaration and Programme of Action.**

29. **The group emphasizes the importance of collaboration and coordination among all Durban follow-up mechanisms, and in this regard recommends that the Chairpersons of the Durban follow-up mechanisms regularly exchange information and that they develop practical tools and any other means facilitating the implementation of the Durban Declaration and Programme of Action.**

Annex I

List of participants at the fifth session of the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action

Members of the group of independent eminent experts

Mr. Saied A. Ashshowwaf

Mr. Ibrahim Agboola Gambari

Ms. Edna Maria Santos Roland

Ms. Hanna Suchocka

Representatives of non-governmental organizations

Ms. Ana Leurinda, African Commission of Health and Human Rights Promoters

Mr. Maurice Katala, Action internationale pour la paix et le développement dans la région des Grands Lacs

Mr. Maluza Wa Mavula Martin, International Committee for the Respect and Application of the African Charter on Human and People's Rights

Mr. Jan Lönn, International Youth and Student Movement for the United Nations; World Against Racism Network

Ms. Nozha Makhlouf, International Youth and Student Movement for the United Nations

Ms. Rania Madi, BADIL Resource Center for Palestinian Residency and Refugee Rights

Mr. Ronald Barnes, International Peoples Charter

Annex II

Agenda for the fifth session

1. Organizational and procedural matters.
2. Thematic discussions:
3. Assessment of the effectiveness of the existing Durban follow-up mechanisms to combat racism, racial discrimination, xenophobia and related intolerance applied in the past 15 years to:
   (a) Identify obstacles to be overcome to effectively implement the Durban Declaration and Programme of Action to eradicate, prevent and combat racism, racial discrimination, xenophobia and related intolerance;
   (b) Identify areas where achievements of the Durban Declaration and Programme of Action have not been gained or further improvements have to be attained.
4. Strategies to achieve full and effective implementation of the Durban Declaration and Programme of Action to combat racism, racial discrimination, xenophobia and related intolerance.
5. Xenophobia.
6. Politics of exclusion.
7. Violent extremism.
8. Terrorism.
9. Racial profiling, incarceration and violent deaths.
10. Mobilizing political will for the Durban Declaration and Programme of Action and public outreach; consultation with civil society.
11. Religious and national intolerance or hatred and political incitements against immigrants and minorities.

Annex III

Programme of work for the fifth session, 8 to 11 October 2018

Date/time	*Agenda item*	*Programme*
Monday, 8 October		
10 a.m.–1 p.m.	Item 1	Opening of the session
	Item 2	Election of a chairperson
	Item 3	Adoption of the agenda and programme of work
	Item 4	Administrative and budget issues
	Item 5	Discussion on the mandate of the group: review and analysis of resolutions
3–6 p.m.	Item 5 (*continued*)	Discussion on the mandate of the group: review and analysis of resolutions
	Item 6	Discussion on methods of work
Tuesday, 9 October		
10 a.m.–1 p.m.	Item 6 (*continued*)	Discussion on methods of work
	Item 7	Planning of upcoming activities: future sessions and intrasessional activities
3–6 p.m.	Item 8	Thematic discussions: (a) Assessment of the effectiveness of the existing Durban follow-up mechanisms to combat racism, racial discrimination, xenophobia and related intolerance applied in the past 15 years to: (i) Identify obstacles to be overcome to effectively implement the Durban Declaration and Programme of Action to eradicate, prevent and combat racism, racial discrimination, xenophobia and related intolerance (ii) Identify areas where achievements of the Durban Declaration and Programme of Action have not been gained or further improvements have to be attained (b) Strategies to achieve full and effective implementation of the Durban Declaration and Programme of Action to combat racism, racial discrimination, xenophobia and related intolerance
Wednesday, 10 October		
10 a.m.–1 p.m.	Item 8 (*continued*)	(c) Xenophobia (d) Politics of exclusion

Date/time	*Agenda item*	*Programme*
3–6 p.m.	Item 8 (*continued*)	(e) Violent extremism
		(f) Terrorism
Thursday, 11 October		
10 a.m.–1 p.m.	Item 8 (*continued*)	(g) Racial profiling, incarceration and violent deaths
		(h) Mobilizing political will for the Durban Declaration and Programme of Action and public outreach; consultation with civil society
3–6 p.m.	Item 8 (*continued*)	(i) Religious and national intolerance or hatred and political incitements against immigrants and minorities
	Item 9	Report of the session. Concluding observations, including possible press statement

Annex IV

Methods of work

1. At its fifth session, held from 8 to 11 October 2018, the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action adopted its working methods.

I. Chairperson-Rapporteur

2. The eminent experts shall elect a Chairperson-Rapporteur for a term of two years, taking due account of the need for rotation among the geographical regions and the gender balance, among other considerations. The Chairperson-Rapporteur shall chair the respective sessions of the group.

3. The Chairperson-Rapporteur shall perform the functions conferred upon her or him by the resolution that creates or renews the mandate of the group, the methods of work and the decisions of the group. The Chairperson-Rapporteur may decide to delegate her or his tasks to other members of the group, following consultations with all other members of the group.

4. The Chairperson-Rapporteur shall represent the group before the General Assembly, the Human Rights Council, States and other stakeholders. The Chairperson-Rapporteur may decide to delegate this task to other members of the group, following consultations with all other members of the group.

5. The Chairperson-Rapporteur shall report to the group on activities that she or he has undertaken during the intersessional period and on any activity undertaken during a session without the other members of the group.

II. Sessions

6. The group meets once a year, for at least two to five working days, in Geneva. The group decides well in advance which meeting shall be closed or opened to the public.

7. The group will integrate a gender perspective in its work and give attention to intersecting forms of discrimination.

8. During the session, the experts shall discuss and agree on the dates for the next session, the respective topics that will be discussed and the external experts they would like to invite. The number of the external experts cannot be more than five, one per region, taking into consideration gender balance, among other considerations.

III. Intersessional activities

9. All activities conducted by the members of the group that have a connection with the mandate of the group will be covered by the present methods of work and should be reported back to the group.

10. Members engaging in intersessional activities are not empowered to make commitments or decisions on behalf of the group unless there is a specific delegation of power given to her or him by the group. Nothing in this rule shall restrict any of the already existing powers of the Chairperson-Rapporteur.

11. Members will avoid any type of actual or potential conflict of interest while engaging in intersessional activities.

IV. Coordination with other human rights mechanisms

12. The group is mindful of the work carried out by other human rights mechanisms, in particular the Durban follow-up mechanisms, and is committed to avoid duplications.

V. Consultations with stakeholders

13. The eminent experts may organize and/or participate, collectively or individually, in consultations deemed necessary for the successful implementation of the mandate of the group, including constructive dialogues with Member States, human rights mechanisms, national human rights institutions, civil society organizations, United Nations entities, regional organizations, academic institutions and experts.

14. Members engaging individually in consultations with stakeholders should inform the group and report back to the group afterwards.

VI. Consideration of information

15. The group welcomes information related to its mandate. Information received from relevant stakeholders will be used, as appropriate, by the group to inform its work.

VII. Consensus

16. The group will strive to achieve consensus in all its decisions. Consensus is achieved by three votes out of four or four votes out of five. Dissenting opinions will be reflected in reports, if the dissenting member so requires.

VIII. Annual report

17. The group reports annually to the General Assembly, including information on its sessions, as well as intersessional activities that have been carried out collectively and individually.

Adopted on 9 October 2018.